# Statement of Walter B. McCormick, Jr.
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# To the House Energy & Commerce Subcommittee on
# Telecommunications and the Internet
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Mr. Chairman, my name is Walter McCormick. I serve as President and CEO of the United States Telecom Association (USTelecom). On behalf of our more than 1,200 member companies, I would like to thank you for this opportunity to appear before the Subcommittee regarding “The Communications Opportunity, Promotion and Enhancement Act of 2006.” I would also like to thank the committee members and staff who have been working for more than a year now on this important issue. The House Energy & Commerce Committee has been at the forefront of this historic effort, and we appreciate your leadership and determination.

As you know, our member companies offer a wide range of services across the communications landscape, including voice, video and data over local exchange, long distance, wireless, Internet and cable networks. USTeleom’s membership ranges from the smallest rural telecom companies to some of the largest corporations in America. We are united in our belief that it is time to update the nation’s communications laws to reflect the dramatic technological and marketplace changes all consumers have witnessed in recent years.

USTelecom enthusiastically supports national video franchising. We believe that consumers should be free to choose the video services they want from whatever provider they prefer. Franchise reform will unleash new competition, and experience has shown that competition will result in reduced rates for the nation’s 66 million cable television subscribers. Enactment of franchise reform will also encourage investment in next-generation broadband networks. We applaud you for proposing franchise reform, and we urge you to move forward expeditiously to bring TV Freedom to America’s consumers.

**Competition has arrived in voice communication --- it is only emerging in video**

Mr. Chairman, the ways in which Americans communicate, the ways in which they send and receive information, have changed fundamentally since the passage of the 1996 Telecommunications Act. Today, you can make a phone call using a wireline phone, or a wireless phone, or a cable phone, or an internet phone. You can get internet access through DSL, or cable modem, or wireless, or satellite – and, increasingly, over powerlines and municipal wi-fi systems. Technology has made it possible for cable operators, who historically offered only video, to offer voice and internet services. And, there are no franchise barriers to their doing so. Technology has also made it possible for voice providers to offer video. But, an archaic governmental system that was meant for a time when technologies were segregated, rather than converged, is a barrier to competitive entry into video. It is time to remove this barrier, and to promote the same competition in video that now exists in voice.

Consumers benefit when companies compete. And, clearly, consumers would benefit from new competition to cable. According to the FCC, cable rates increased 86% from 1995 to 2004. The cable industry does not like us calling attention to this statistic. Indeed, they dislike it so much that they have refused to run our television ads in our nation's capital where this debate is taking place. They claim that the real, "channel-adjusted" figure, is closer to 57%. Regardless of whether the increase is in real terms, or in "channel-adjusted" figures, it is a whopping increase – one that the Chairman of the Federal Communications Commission said last week is unparalleled in any other area under his jurisdiction.

So, the quicker Congress acts, the better it is for consumers. Time is money. According to a study by the Phoenix Center, if franchise reform were to be postponed until the next session of Congress, that one year of delay, would cost consumers an estimated $8 billion. A two-year delay would cost Americans nearly $16 billion. This equates to about $75 per household per year. On a state-by-state basis the numbers are equally substantial. One year of delay in franchise reform would cost:

- Michigan consumers $271 million;
- Massachusetts consumers $165 million; and
- Florida consumers $626 million.

Consumers will pay a steep price for delay.

The GAO, too, has studied trends in cable pricing and the effects of competition. It has found that cable faces wireline competition in only 2 percent of its franchise areas. But wireline competition has an impact that satellite competition does not. The GAO has found that prices are 15 percent lower where cable faces a wireline competitor.

Local franchising requirements impede entry. They extend the period during which consumers pay artificially high prices. Let me give you two examples:

- Ben Lomand Telephone Cooperative in McMinnville, Tennessee, has upgraded its network, and has the capacity to offer video service to approximately 60 percent of its 42,000 customers. However, in order to offer video, it must apply for and receive 25 different franchise agreements, some of which are required for areas in which it serves just 100-200 customers. After 18 months of trying, the company has received only 15 franchises.

- In the case of Verizon, one year after engaging in franchise negotiations with 95 local franchising authorities, only 10 have granted franchises and 85 remain in negotiation. Typically, the process takes 18 to 24 months.

Therefore, Mr. Chairman, we support your moving forward to enact legislation in this Congress to extend the same competitive benefits in the video market as consumers now enjoy in the voice market.

**Broadly Updating Our Nation's Telecom Laws**

USTelecom and its member companies believe that the philosophy that underlies video choice is one that should apply broadly to Congress's updating of the telecom laws – that is, that the world of communications has changed, that it is time to move beyond government managed competition and embrace market-based competition, and thereby give consumers the ability to obtain the services they want from the companies they choose. We therefore urge the Committee, after it acts on video choice, to follow through on its stated intention to proceed forward expeditiously on separate legislation in this Congress to stabilize universal service, to address inter-carrier compensation, and to unleash the full benefit of the free market to traditional voice services that face competition. We understand the Committee's decision to not address these broader issues as part of this legislation, instead opting to address them in a separate package, in order to expedite action that will bring to consumers the immediate benefit of video choice. In this regard, however, we would respectfully suggest that the provisions in the Communications Opportunity, Promotion and Enhancement Act regarding net neutrality, VOIP E-911, VOIP interconnection, and government-owned broadband networks are also ones that address matters that are unrelated to video franchise reform. Each involves matters that would benefit from further examination by the Committee.

On the issue of so-called "net neutrality," our industry has stated that it will not block, impair or degrade consumer access to the internet, and the FCC has made clear that it has the authority to enforce its broadband principles. Therefore, we believe that legislation in this area is premature. Any grants of new regulatory authority or statutory ambiguities could chill innovation and investment.

Similarly, we are concerned by provisions in this legislation that might be used to justify a delay in implementing important 911 services by VOIP providers. Emergency services are today technically feasible, commercially practicable and already being provided by responsible VoIP providers. Additional provisions in this legislation, that are unrelated to video franchise reform, appear to benefit VoIP providers by giving them the right to, and benefits of, interconnection as if they are telecommunications carriers, but without demanding of them the important societal requirements imposed on all other telecommunications carriers, such as contributions to universal service, consumer record protections, and access for the disabled. With regard to interconnection, commercial, free market negotiations are working well. There is no need for regulation. At a minimum, the bill should be clarified to ensure that the rural exemption is not affected by these provisions, and that measures be taken to insure that these interconnection rights do not undermine universal service or exacerbate arbitrage of the intercarrier compensation regime.

Finally, we are concerned by provisions in this bill whereby Congress would pre-empt the authority of the states over their own municipalities with regard to deployment of government-owned broadband networks. While we agree that any government-owned enterprise should be precluded from having advantages or benefits granted by the authority that owns it, the prohibition in the bill appears to be unenforceable. We believe that this is a matter unrelated to franchise relief, and therefore something that should be the subject of other legislation.

**Moving Towards A Consumer-Controlled Marketplace for Video**

In summary, USTelecom applauds the Committee for its work in lifting the barriers to entry into the provision of video services, and for moving expeditiously towards a consumer-controlled marketplace for video. As you know from our advertising, we refer to it as "TV Freedom," and we believe that competition and choice will bring America the future … *faster*. We look forward to working with the Committee toward speedy and final action in this Congress.